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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 862

ANNA KNOLL AND ROSE KELLER, *Petitioners*

v.

ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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Statement of Petitioner Knoll

In order to meet my deadline I decided to prepare this petition with the assistance of petitioner Rose Keller, as I'm employed on a full time basis and didn't have enough time to keep searching for a lawyer that will handle this complex inheritance case.

This petition is based on the research I conducted on my parents estate during the past eight years while I was trying to get my inheritance of which I am being deprived <u>without due process of law</u>.

I have not been successful in getting my inheritance in spite of the many trips I made to Kansas since I received the first notice of a hearing on my parents estate in the fall of 1957.

Since Rose Keller and I filed this appeal in the Tenth Circuit, we have had to spend a considerable amount of time on three related litigations in which Socony Mobil named Rose Keller and me as defendants because we are trying to get our inheritance. Socony Mobil is purchasing the oil being produced from our deceased parents farm on the basis of Alex Knoll's "Color of title."

Petitioner Anna Knoll

Statement of Petitioner Keller

I have spent a lot of money and made many trips to Kansas trying to get my inheritance since I received the first notice of a hearing on my parents estate eight years ago, but I still don't have my inheritance.

Even though I went to Kansas for the hearing in November 1957 I was not even told that a Decree of Descent was issued on the day of the hearing. I got a copy of the Decree of Descent in May 1958 when I made a special trip to Hill City, Kansas and saw a lawyer I had not consulted in November 1957 when I was at Hill City for the hearing on my mother's estate. I got a certificate of title when I made another special trip to Hill City, Kansas in November 1958. Even though I saw other lawyers in Kansas thereafter and even though a lawsuit was purported to have been filed in my behalf in 1959 in the United States District Court for the District of Kansas I still did not get my inheritance.

I have been paying oil and gas taxes in Graham County, Kansas since 1959 on royalty interest that Socony Mobil has been holding in suspense pending the settlement of my mother's estate.

I have not been given any consideration whatsoever even though I have a hearing handicap and am a natural heir of P.A. Knoll and Rose Knoll. All evidence in my favor has been suppressed.

Petitioner Rose Keller

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ALEX KNOLL, JOSEPHINE KNOLL, JOE KNOLL, ADAM KNOLL, WENDELIN KNOLL, MARY BITTEL, ADOLPH KNOLL, STEPHANIE KNOLL, MARGARET SLUGA, CASEY JONES, MOBIL OIL COMPANY

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Anna Knoll and Rose Keller, petitioners, pray that a writ of certiorari be issued to review the judgment entered in this cause on August 23, 1965 by the United States Court of Appeals for the Tenth Circuit affirming the dismissal action of the United States District Court for the District of Kansas for a want of federal jurisdiction.

OPINIONS AND OTHER RELATED DOCUMENTS BELOW

Decree of Descent on Rose Knoll estate[1] issued by the Probate Court of Graham County, Kansas on November 15, 1957 (Appendix 1, page 1a); Certificate of Title dated November 24, 1958 for Anna Knoll (Appendix 2, page 4a); Certificate of Title dated November 24, 1958 for Rose Keller (Appendix 3, page 5a); Order of Dismissal of the United States District Court for the District of Kansas dated August 31, 1959 (Appendix 4, pages 6a-7a); Memorandum of Opinion of the United States District Court for the District of Kansas, dated December 10, 1964 (Appendix 5, pages 7a-26a); Judgment filed in the United States District Court for the District of Kansas on December 14, 1964 (Appendix 6, page 27a); the per curiam opinion of the United States Court of Appeals for the Tenth Circuit, 350 F. 2d 407 (1965) (Appendix 7, pages 28a-29a).

JURISDICTION

The United States Court of Appeals for the Tenth Circuit affirmed for lack of jurisdiction the dismissal action by the United States District Court for the District of Kansas on August 23, 1965. A petition for rehearing was filed by petitioners on September 10, 1965 and was denied on September 22, 1965.

On October 7, 1965 an order was entered denying petitioners' motion for stay of mandate.

The jurisdiction of this Court is invoked under 28 U.S.C. Sec. 1254.

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[1] Petitioners write their mother's first name *Rose* as it appears on their baptismal certificates, not *Rosa* as it appears on many of the probate court records of Graham County, Kansas.

QUESTIONS PRESENTED

1. The question of the denial of due process of law to petitioners down through the years when the estates of their parents, P. A. Knoll and Rose Knoll, were probated in Graham County, Kansas.

2. The question of Casey Jones' *negligence* in leasing for oil and gas purposes in the early 1950's the Rose Knoll estate on the basis of Alex Knoll's "color of title", and the question of setting aside Alex Knoll's *invalid* deeds and Alex Knoll's *improper* royalty conveyances.

3. The question of Socony Mobil Oil Company's *negligence* in purchasing since November 1957, the oil produced from the Rose Knoll estate on the basis of interests that are inconsistent with a Decree of Descent issued by the Probate Court of Graham County, Kansas, and thereby depriving petitioners of their rightful share of royalty interest since 1957.

4. The question of the existence of federal jurisdiction and the denial of due process to petitioners in a 1959 litigation entitled *Rose Keller, Anna Knoll, and Margaret Sluga* v. *Alex Knoll* in civil action No. W-1811 which was filed in the U. S. District Court for the District of Kansas on the basis of diversity of citizenship. Petitioners did *not* get proper legal counsel in case No. W-1811.

5. The question of whether or not the Order of Dismissal of August 31, 1959 of the aforementioned case No. W-1811 (Appendix 4, pages 6a-7a) could be carried into effect and royalty interest could properly be released by Socony Mobil, in that petitioners Anna Knoll and Rose Keller *timely* notified the concerned parties they would *not* sign three orders sent to them during the latter part of 1959 because these orders are in conflict with their inheritance interests in the aforementioned 1957 Decree of Descent (Appendix 1, pages 1a-3a).

6. The question of Socony Mobil Oil Company's negligence in releasing royalty interest to the other Knoll heirs and holding royalty interests for petitioners in suspense on the basis of Alex Knoll's "color of title."

7. The question of the taxes petitioners have been paying in Graham County, Kansas since 1959 on royalty interests being withheld by Socony Mobil Oil Company, pending settlement of petitioners' inheritance interests in accordance with the 1957 Decree of Descent.

8. The question of the existence of federal jurisdiction to reopen and modify or set aside the Order of Dismissal dated August 31, 1959 of the aforementioned case No. W-1811 that is in conflict with the aforementioned Decree of Descent issued by the Probate Court of Graham County, Kansas on November 15, 1957 and petitioners' certificates of title (Appendix 2, page 4a and Appendix 3, page 5a).

9. The question of the existence of federal jurisdiction under the Fourteenth Amendment and/or on the basis of diversity of citizenship.

CONSTITIONAL PROVISIONS INVOLVED

Section 1 of the Fourteenth Amendment of the Constitution which is applicable in this case provides as follows:

> All persons born or naturalied in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT

This application for writ of certiorari arises out of the steps that have been taken down through the years to negate petitioners' efforts to get the inheritance interests in *fee simple* that petitioners acquired in their parents 320-acre farm in Graham County, Kansas at the death of their mother on December 13, 1941. This occurred over a long period of time during *three* probate court proceedings in Graham County, Kansas and in five litigations in the United States District Court for the District of Kansas. These five litigations are entitled *Rose Keller, Anna Knoll and Margaret Sluga* v. *Alex Knoll,* civil action No. W-1811; *Anna Knoll and Rose Keller* v. *Alex Knoll et al.,* civil action No. W-3239; and *Socony Mobil Oil Co.* v. *Anna Knoll et al.,* civil action Nos. W-3361, W-3362, and W-3363.

Petitioners filed this action, which is civil action No. W-3239, in the United States District Court for the District of Kansas in July 1964 to get relief from civil action No. W-1811, which was purported to have been filed in their behalf, but which was *not* filed in their behalf in that it prevented them from getting their inheritance interests rather than helped them get their inheritance interests. The three litigations numbered W-3361, W-3362, and W-3363, now pending in the United States District Court for the District of Kansas, were brought in the early part of 1965 by Socony Mobil Oil Company because petitioners want to have their inheritance interests including their rightful share of royalty interest from the oil that is being produced from their parents' estate.

Since petitioners are not lawyers they are using exhibits to relate the manner in which they have been deprived of their inheritance without due process of law down through the years.

1. Petitioners Were Denied Due Process When Their Father's Estate Was Probated

Petitioners were denied *due process* when their father's estate was probated before their mother's death and again after her death in that they did not receive any notices of any hearings on their father's estate, and consequently petitioners did not know what this was all about when they received the *first* notice of a hearing on their parents estate in the fall of 1957 when their mother's estate was probated. A copy of this notice of hearing is reproduced in Appendix 8 on page 30a.

Since petitioners were *not* sent any notices of any hearings on their father's estate and since petitioners were far away from home when their father's estate was probated they did not know that their mother was declared *sole* beneficiary in July 1938 until they began to do some research on their parents estate in recent years.

Petitioners got such late notification of their mother's illness that they could not get to her bedside before she passed away on December 13, 1941, and consequently petitioners did not have the opportunity to ask her about the affairs of her estate before her death. As a consequence, petitioners did not know what this was all about when they were told on the day of their mother's funeral, at an unannounced meeting, that their mother had left nothing but debts, that she had left no will, and that the estate should be left intact so that the estate could be used to pay off their parents *enormous* debts.

Since petitioners lived far away from their parents home after their parents deaths and since the other Knoll heirs used their parents intact estate for their unjust enrichment, petitioners could not find out what transpired on their parents estate until they did a lot of research after they received the *first* notice of a hearing on their parents estate in the fall of 1957. Petitioners began their research

on the basis of what was said at the 1957 hearing and the correspondence that was written to them after this 1957 hearing on their mother's estate. Petitioners received a number of letters after the 1957 hearing about the deed that was purported to have been given to Adolph Knoll, who was supposed to have been Alex Knoll's predecessor in title. Letters written by Joe Knoll, Wendelin Knoll, and others contained statements of various types about petitioners' parents estate that petitioners used to check other aspects of their parents estate.

Petitioners note from the records on their father's estate and petitioner Anna Knoll's correspondence of September 30, 1960 from the Department of Revenue, Topeka, Kansas that their father's estate was probated shortly after his death and that a finding to the effect that he left his entire estate to their mother was issued on July 8, 1938. The Order of the Inheritance Tax Commission of the State of Kansas reflecting this finding is reproduced as Appendix 9 on pages 31a-32a and the aforementioned September 30, 1960 letter of the Department of Revenue to Anna Knoll as Appendix 10 on pages 33a-34a.

The content of the two aforementioned exhibits is consistent with the statement Alex Knoll made in the 1941 affidavit (Appendix 11 on pages 34a-35a) to the effect that all their father's debts were paid; however, the content of these two documents is not consistent with Alex Knoll's statement in this 1941 affidavit to the effect that no probate proceedings were had for the reason that none were necessary.

Petitioners also noted from their father's probate court records that their mother was purported to have been the executrix of their father's estate and to have prepared certain reports on their father's estate in this capacity. Petitioners know that their mother could *not* prepare reports for the probate court records even with instructions

since she could *not* speak, read, or write the English language and did not have any business experience. For this reason petitioners know that their mother did not know about or did not know why claims were filed against their father's estate such as a 1938 claim that didn't even show the amount claimed nor the reason for the claim. A copy of the aforementioned 1938 claim is reproduced in Appendix 12, page 37a.

Petitioners noted from letters that they received from Joe Knoll and Wendelin Knoll in December 1957 that Adolph Knoll was supposed to have given Joe Knoll a Power of Attorney to handle their parents estate after their mother's death while Adolph Knoll was in military service. In checking this matter with the Register of Deeds at Hill City, Kansas, petitioner Anna Knoll learned that a power of attorney from Adolph Knoll to Joe Knoll dated September 24, 1942 had been filed with the Register of Deeds in June 1944. This power of attorney states in effect that Adolph Knoll was fee-title owner of their parents half section of real estate. Since petitioners had not conveyed their inheritance interests to Adolph Knoll this was *not* a valid power of attorney. See copy of Power of Attorney in Appendix 13, pages 39a-41a.

Petitioners also noted from the probate court records that on Nov. 11, 1944 Joe Knoll was by the Probate Court of Graham County, Kansas appointed administrator of the P. A. Knoll estate. This was done *without* the knowledge of petitioners several months after petitioner Anna Knoll went into military service. This was nearly seven years after their father's death, nearly three years after their mother's death and nearly six years after their mother had been declared *sole* beneficiary of their father's estate. *See copy of Notice of Appointment, Administrator C.T.A.* in Appendix 14 on page 42a.

Petitioners also noted from the probate court records that Joe Knoll filed a petition on the P. A. Knoll estate,

without the knowledge of petitioners. This petition, which was filed in the early part of 1947, was purported to be in settlement of the P. A. Knoll estate, which had already been the Rose Knoll estate for nearly six years since she passed away on Dec. 13, 1941. *See copy of Notice of Final Settlement* in Appendix 15, on page 43a.

2. Casey Jones Was Negligent in Leasing the Rose Knoll Estate and Socony Mobil Was Negligent in Purchasing Oil Produced From the Rose Knoll Estate on the Basis of Alex Knoll's "Color of Title"

Casey Jones of Hill City, Kansas was *negligent* in leasing for oil and gas purposes in the early 1950's from Alex Knoll and his wife Josephine Knoll the Rose Knoll estate on the basis of Alex Knoll's "color of title."

Casey Jones leased this acreage from Alex Knoll after the P. A. Knoll estate had been probated two times *without* the knowledge of petitioners and after Alex Knoll's "color of title", based on two deeds from Adolph Knoll and Adolph Knoll's wife, Stephanie Knoll, were on record. Copies of Adolph Knoll's deeds to Alex Knoll, which comprised Alex Knoll's "color of title" are reproduced in Appendix 16 on pages 44a-45a and Appendix 17 on pages 46a-48a.

Alex Knoll and Casey Jones both knew that Alex Knoll could *not* make valid oil leases in the early 1950's on the Rose Knoll estate in that petitioners Anna Knoll and Rose Keller have an undivided one-ninth inheritance interest in fee simple therein, effective as of the date of the death of their mother on Dec. 13, 1941. Alex Knoll and Casey Jones knew that they were making these oil leases at their own risk as they knew that they could *not* treat this acreage as if it belonged to Alex Knoll. Casey Jones could easily determine this because he lives near the Knoll estate and has been well acquainted with the Knoll family,

he knew the history of the Knoll estate, and he is an attorney.

Socony Mobil is not an innocent purchaser of the oil produced from the Knoll estate in that Socony Mobil could easily have determined from the records when it began purchasing same in November 1957 that Alex Knoll did not have a clear title.

3. Petitioners Were Denied Due Process When Their Mother's Estate Was Probated in November 1957 and a Decree of Descent Was Issued

Casey Jones, who represented Alex Knoll when the Rose Knoll estate was probated in the fall of 1957, leased her estate for oil and gas purposes on the basis of Alex Knoll's "color of title."

The Rose Knoll estate was *not* probated until nearly sixteen years after her death when Socony Mobil began to purchase the oil produced on her estate on the basis of Alex Knoll's "color of title", and after the other seven Knoll heirs had gradually absorbed most of her personal property they said they would leave intact on the day of their mother's funeral.

The notice of hearing, which was sent to petitioners by Casey Jones during the latter part of October 1957 when oil was discovered on the Rose Knoll estate, did *not* constitute due and sufficient notice in that it was nothing but a newspaper clipping, and in that it did not give petitioners any idea what this hearing on their mother's estate was all about. Petitioners could not determine on the basis of this notice of hearing on what basis Alex Knoll claimed to be the owner of their mother's estate. No letter of explanation accompanied this newspaper clipping which was placed in an envelope and sent to petitioners as ordinary mail by Casey Jones.

This 1957 newspaper clipping was the *first* notice petitioners *ever* got of a hearing to settle the affairs of their parents estate, and consequently petitioners did not realize until long thereafter that many hearings had been held on their parents estate *without* petitioners' knowledge. A copy of this 1957 notice of hearing is reproduced in Appendix 8, page 30a.

Even though petitioners appeared for the 1957 hearing and consulted Hill City, Kansas lawyers all kinds of obstacles were put in their way to keep the 1957 Decree of Descent from going into effect and thereby depriving petitioners of their undivided one-ninth inheritance interests in *fee simple* in the E½ of Section 10, Township 10 South, Range 25 West, of Graham County, Kansas.

The lawyer that petitioners consulted at Hill City, Kansas did not even take petitioners to the courthouse for the hearing. Nevertheless, a Decree of Descent was issued on the day of the hearing but petitioners did not know about this until about six months later. Even though this Decree of Descent showed that each of the petitioners inherited an undivided one-ninth of their mother's personal and real property the lawyer they consulted did not tell them that a Decree of Descent was issued nor were they provided with a copy of the Decree of Descent.

Much of the discussion on the day of the hearing between Alex Knoll and petitioners and their sisters, Mary Bittel and Margaret Sluga, took place in the office of the lawyer that petitioners consulted. This discussion related to the 1942 deed of Alex Knoll's purported predecessor in title that petitioners never heard about until this notice of a hearing on their mother's estate was sent to them about fifteen years later. Although petitioners asked to see this deed, it was *not* produced for their inspection at this hearing. Petitioners were not even provided copies of this deed until several weeks later when copies were provided

them through intermediaries. Margaret Sluga was the intermediary that transmitted a copy thereof to petitioner Rose Keller in that she gave her the letter of December 13, 1957 written by Casey Jones to Adolph Knoll to which was attached a copy of this purported 1942 deed. A copy of this letter together with a copy of the deed is reproduced as Appendix 18 on pages 48a-52a.

Through this and other indirect means petitioners were told that Adolph Knoll was supposed to have received the 1942 deed from the Knoll heirs that petitioners never heard about until about fifteen years later when Socony Mobil began purchasing the oil produced from the Rose Knoll estate on the basis of Alex Knoll's "color of title."

Petitioners have never received as consideration the one dollar and love and affection shown in the aforementioned copy of this 1942 deed to Adolph Knoll.

Petitioners *first* found out about the Decree of Descent that was issued on November 15, 1957, after Rose Keller made a special trip to Hill City, Kansas in May 1958, and again attempted to get the inheritance she did not get when she appeared for the hearing on November 15, 1957. She was furnished a copy of the November 15, 1957 Decree of Descent after she consulted a Hill City lawyer, petitioners had *not* consulted in November 1957.

Petitioners were not even successful in getting their inheritance after Rose Keller made another trip to Hill City, Kansas in November 1958 and got certificates of title showing their entitlement to an undivided one-ninth interest in fee simple in the acreage that is the subject of this controversy. She got these certificates after she discussed this matter with the County Clerk and after he took her to the Probate Judge's office and told the Probate Judge to give her the certificates of title. Copies of the certificates of title for petitioners Anna Knoll and Rose Keller

are reproduced in Appendix 2 on page 4a and Appendix 3 on page 5a.

4. Petitioners Were Denied Due Process in Civil Action No. W-1811 Wherein an Order of Dismissal Was Issued That Is in Conflict With the 1957 Decree of Descent

Petitioners consulted Mr. James R. Barr of Wichita, Kansas to get the inheritance interests to which they are entitled in accordance with certificates of title and a November 1957 Decree of Descent. Mr. Barr did *not* work for the best interests of his clients when he filed *civil action No. W-1811* in March 1959 entitled "Rose Keller, Anna Knoll, and Margaret Sluga vs. Alex Knoll" in the U. S. District Court for the District of Kansas on the basis of diversity of citizenship wherein an Order of Dismissal was filed to the benefit of Alex Knoll and to the *prejudice* of petitioners.

During civil action No. W-1811 Alex Knoll's wife and four Knoll heirs from Kansas and Adolph Knoll from Illinois, none of whom were named as litigants in this action, were rushed to Wichita for a meeting on July 23, 1959 to help trick petitioners into signing an agreement and deeds to Alex Knoll in an attempt to give Alex Knoll a clear title because Alex Knoll did not have a clear title. This happened after the depositions of petitioners Anna Knoll and Rose Keller were taken on July 22, 1959 by Robert Martin, one of Alex Knoll's lawyers, wherein petitioners had proved their entitlement to their inheritance and wherein petitioners had proved that the 1957 Decree of Descent should go into effect.

Mr. James O. McVey, a Hill City lawyer was brought to Wichita for the aforementioned July 23, 1959 meeting to pose as a family mediator so he could help to trick petitioners into signing the agreement and deeds to Alex Knoll in an attempt to remove the cloud from Alex Knoll's title.

The aforementioned deeds of 1959 to Alex Knoll are *not* valid in that petitioners were tricked into signing the

deeds on which their respective names appeared. These deeds weren't even discussed during the negotiations on July 23, 1959. Petitioners have never received as consideration the one dollar shown in the aforementioned deeds of Alex Knoll. Copies of these three deeds of July 23, 1959 to Alex Knoll did not give Alex Knoll a better title than the two deeds he got from Adolph Knoll at an earlier date. Alex Knoll's purported deeds to their parents' farm are reproduced as Appendix 19 on page 53a, Appendix 20 on pages 54a-56a and Appendix 21 on page 57a. Anna Knoll was tricked into signing the deed reproduced in Appendix ~~21 of page 57a.~~ 19 on page 53a.

If Mr. Barr had duly represented petitioners he would not have accepted pay from petitioners' *opponents* as he did when he accepted pay from the four Knoll brothers after they came in as first parties and helped to trick petitioners into signing the agreement. The first paragraph on page 60a of the agreement of July 23, 1959 (Appendix 22, page 60a) states in effect that the four Knoll brothers paid the attorney fees. This means that they also paid Mr. Barr's fees. See first paragraph on page 60a of Appendix 22. After Mr. Barr accepted pay from the four Knoll brothers he refused to help petitioners when they appealed to him for help.

If Mr. Barr had duly represented petitioners he would have taken the time to explain the negotiations to them and particularly to Rose Keller because of Rose Keller's hearing handicap; and he would *not* have permitted Mr. McVey of Hill City to come to Wichita for the negotiations on July 23, 1959 to pose as a family mediator so Mr. McVey could work for Alex Knoll's benefit. Petitioners did *not* ask Mr. McVey to come to Wichita to intercede in their behalf. Mr. McVey made it clear in his letter of August 1, 1959 that he came to Wichita on 30 minutes notice from Mr. Martin, who was one of Alex Knoll's lawyers. See first paragraph of Appendix 23, page 61a.

Alex Knoll never had anything but "color of title" even though *five* deeds were recorded in his name (3 deeds were recorded in July 1959 and 2 deeds were recorded before July 1959). Therefore Alex Knoll could *not* make valid royalty conveyances on July 23, 1959 on the basis of his "color of title" on that date, before that date, nor after that date. No copies of these royalty conveyances were delivered to petitioners, and consequently petitioners did *not* see copies of these royalty conveyances until petitioner Anna Knoll had copies made thereof in September 1959 when she discovered these on record at Hill City, Kansas when she was checking on her parents' estate. Alex Knoll's *improper* royalty conveyances are reproduced as Appendix 24 on pages 62a-65a, and Appendix 25 on pages 65a-68a.

Petitioners have not signed the two ~~division~~ transfer orders sent to them by Mr. Barr in September 1959 and one ~~transfer~~ division order sent to them by Mr. Barr in December 1959, which are based on the aforementioned *improper* Order of Dismissal, because these three orders are based on Alex Knoll's "color of title" and are therefore in conflict with the aforementioned Decree of Descent. Mr. Barr's letters of September 28, 1959 and December 15, 1959 transmitting these three orders to Anna Knoll and Rose Keller for signature are reproduced as Appendix 26 on pages 68a-72a and Appendix 27 on pages 73a-77a.

From the aforementioned letter of Mr. Barr dated December 15, 1959 (Appendix 27, pages 73a-74a) it is apparent that petitioners had appealed to Mr. Barr for help on their inheritance before he sent them the last order on December 15, 1959 for signature and that Mr. Barr refused to help them.

After Mr. Barr refused to help petitioners get their rightful share of their inheritance including royalty interest petitioners notified Socony Mobil of the discrepancies in their interests as petitioners were asked to do in the afore-

mentioned notice on pages 69a and 74a that was attached to the orders sent to them for signature. Rose Keller's *timely* notification to Socony Mobil of the discrepancies in her interests is apparent from the letter she received from Socony Mobil on January 20, 1960. A copy of this letter is reproduced as Appendix 28 on pages 79a-80a.

Petitioners could not get any help from Socony Mobil although they corresponded with them from the early part of 1960 to 1964. From the attached letter written by Mobil Oil Company on February 17, 1964 (Appendix 29 on pages 81a-82a) it is apparent that Socony Mobil continued to purchase the oil produced from the Rose Knoll estate on the basis of Alex Knoll's "color of title."

Petitioners have been paying taxes in Graham County, Kansas on royalty interest being held in suspense by Socony Mobil on the basis of the aforementioned division orders and one transfer order, pending settlement of the discrepancies of their interests in accordance with the aforementioned November 15, 1957 Decree of Descent. Petitioners' most recent tax payments of November 1965 are reproduced as Appendix 30 on page 83a and Appendix 31 on page 84a.

Petitioners did not know that an Order of Dismissal had been filed to their prejudice on August 31, 1959 until a year later. If Mr. Barr had duly represented petitioners he would not have waited a whole year before he pointed out to them that their case was dismissed with prejudice and could not be reopened. This was done in an exchange of correspondence with Mr. Brooks, the lawyer that helped Rose Keller engage Mr. Barr. The correspondence of August 31, 1960 and September 2, 1960 that was exchanged between Mr. Brooks and Mr. Barr wherein each pointed out to petitioners for the first time that their case had been dismissed with prejudice is reproduced as Appendix 32 on page 85a and Appendix 33 on page 86a.

The Order of Dismissal (Appendix 4, page 6a) does not refer to the deeds to Alex Knoll that petitioners were tricked into signing. It does not refer to the two invalid ~~division~~ transfer orders and the one invalid ~~transfer~~ division order that are based on Alex Knoll's improper royalty conveyances that were sent to petitioners for signature. However it does refer to the royalty conveyances that were prepared for petitioners so they could be recorded. These conveyances were *not* delivered to petitioners. Petitioners saw these the first time when petitioner Anna Knoll discovered these on record at Hill City, Kansas in September 1959 and had copies made thereof when she was checking on another matter.

Petitioners now know but did not know when case No. W-1811 was filed that the court had no jurisdiction over that particular case because the interests of the Knoll heirs had already been determined. The Court did not even have jurisdiction on the basis of diversity of citizenship. The Illinois parties and the five Kansas parties that were named in the agreement (Appendix 22, page ~~30a~~ 38a) as first and second parties destroyed diversity of citizenship. The court did not have jurisdiction over the parties in that the parties were brought in *without* a motion or order and in that all parties on one side did not have citizenship diverse to those on the other side.

The aforementioned Order of Dismissal was not a proper order because the constitutional rights of petitioners were violated in that this order of dismissal was used as a device to give benefits to a number of parties from Kansas and Illinois that were not named as litigants in this case which is based on diversity of citizenship. However these parties did come in as parties of the first part and as parties of the second part to help trick petitioners into signing an agreement and deeds to Alex Knoll to give Alex Knoll a clear title to their parents estate.

5. When Petitioners Could Not Get W-1811 Reopened They Filed This Action in July 1964 in Which They Appear Pro Se

Petitioners kept looking for help for a number of years to reopen civil action No. W-1811 after they had received the two transfer orders and the one division order from Mr. Barr in 1959. If petitioners had signed these orders they would get much less royalty interest from their parents' estate than Alex Knoll who did *not* receive any more interest in their parents' estate than they did. Petitioners continued to pay oil and gas taxes on the royalty interest held in suspense by Socony Mobil on these three outstanding orders. About six months before petitioners filed this case the funds being held in suspense for each petitioner amounted to $5,734.39 as shown on *page 81a* in a copy of a Feb. 17, 1964 letter from Mobil Oil Co. This represents a much smaller interest than is rightfully theirs in accordance with their inheritance as decreed in the 1957 Decree of Descent.

Petitioners wanted to have W-1811 reopened so they each could get the undivided one-ninth inheritance interest in fee simple to which each of them is entitled in accordance with the certificates of title that were issued by the Probate Judge of Graham County, Kansas, and the Decree of Descent that was issued on November 15, 1957. The documents on record that petitioners' opponents used as an excuse to keep the inheritance interests of petitioners from going into effect were the Order of Dismissal of August 31, 1959 that was filed *without* the knowledge of petitioners, the royalty conveyances that were *not* delivered to petitioners, and Alex Knolls's 1959 deeds that petitioners were tricked into signing in civil action No. W-1811.

In the course of time petitioners decided to take the case to court themselves to get relief because they could not find a Kansas lawyer to help them get their inheritance because of the manner in which their inheritance interests had been prejudiced.

In July 1964 petitioners filed civil action No. W-3239 entitled "Anna Knoll and Rose Keller vs. Alex Knoll et al." in the United States District Court for the District of Kansas where their inheritance interests had been prejudiced in civil action No. W-1811. Petitioners tried to write their pleadings as best as they could using the pleadings in W-1811 as a model.

While petitioners wrote their complaint in a crude fashion it was clear from the complaint that petitioners had not received a cent of benefit from their parents valuable estate. It was also clear that they each wanted their outstanding undivided one-ninth inheritance interest in fee simple as decreed in the November 15, 1957 Decree of Descent. It was also clear that they each wanted their rightful share of royalty interest over and above what Socony Mobil is holding in suspense and on which Socony Mobil doesn't intend to pay them any interest.

A U. S. Marshall served the summons together with the complaint to the seven residents of Kansas and to Socony Mobil, a corporation doing business in Kansas. The complaint was served to the three Illinois defendants by certified mail. A copy of the U. S. Marshal's return for four of the Kansas residents is reproduced in *Appendix 34* on page 87a, *Appendix 35* on page 89a, *Appendix 36* on page 90a, and *Appendix 37* on page 90a.

In its answer Socony Mobil alleged that it was an innocent purchaser of the oil produced from the Knoll estate.

The other defendants filed their motion to dismiss this action.

Oral arguments were presented in the United States District Court for the District of Kansas on August 28, 1964. Some of petitioner Anna Knoll's remarks in court related to a 1942 deed to Adolph Knoll that had been recorded in 1942 *without her knowledge* to deprive her of

her inheritance without due process of law. Petitioners never heard about this deed until fifteen years after the deed was recorded.

Petitioner Anna Knoll's remarks before the Court on August 28, 1964 also related to case No. W-1811. She made a statement to the effect that if diversity of citizenship doesn't apply to this case then it didn't apply in case No. W-1811 in which a lot of parties from Kansas and Illinois came in without a motion or order. She stated in effect that adding these parties had the effect of destroying diversity of citizenship on which suit was brought in W-1811. Petitioner Anna Knoll's closing argument related to the manner in which she had been deprived of her inheritance without due process of law in violation of the fourteenth amendment of the Constitution. The judge's closing remarks were to the effect that her statement to this effect would be considered. Her statements in Court appear in *Appendix 38* on pages 92a-98a.

No handwritten signature actually appeared on the twenty-page memorandum of opinion, that was sent to each of the petitioners three and a half months after petitioner Anna Knoll appeared in court for the arguments on the motion to dismiss. A copy of the memorandum of opinion is reproduced in *Appendix* ~~7a on page 26a.~~ Now pages 7a - 26a.

The Memorandum of Opinion did not take into consideration petitioner Anna Knoll's statement before the court on August 28, 1964 about denial of due process that the judge said he'd take into consideration.

This Memorandum of Opinion was prejudicial to petitioners in that it was written to keep in effect the judgment in civil action No. W-1811, which would take away *without due process of law* from petitioners the undivided one-ninth inheritance interests each of the petitioners acquired through the aforementioned Decree of Descent is-

sued by the Probate Court of Graham County, Kansas on November 15, 1957.

Various statements in this memorandum of opinion are prejudicial to petitioners such as the statements on page 8a-10a to the effect that petitioners were represented by counsel in W-1811, that Adolph Knoll was to pay their parents debts, and that a quit claim deed to Adolph Knoll was executed in 1942.

Petitioners admit that Mr. Barr's name appears on the record as having represented them in W-1811 but they want to make it very clear that they did *not* receive proper legal counsel from Mr. Barr in that Mr. Barr did not help petitioners get their inheritance.

The other Knoll heirs pretended that Adolph Knoll would use their parents' estate to pay off their parents' debts right after their mother's death but it is quite apparent now that they were talking about fictitious debts. This is quite apparent from the affidavit Alex Knoll prepared in 1942, shortly after their mother's death. This affidavit dated 7 January 1942 is to the effect that all bills, accounts, and charges of the decedent, including the expenses of her last illness and funeral have been paid in full. A copy of this 1942 affidavit is reproduced as *Appendix 39* on page 99a.

Petitioners did *not* execute a deed to Adolph Knoll in 1942. Petitioners never talked about executing a deed to Adolph Knoll and never knew anything about a deed to Adolph Knoll having been recorded in 1942 until 1957 when Socony Mobil started purchasing the oil produced from their parents' estate.

The memorandum of opinion is biased in favor of Alex Knoll in that it is based to a considerable extent on information obtained from the records in civil action No. W-1811 which was dismissed with prejudice to petitioners.

In that litigation petitioners did not have an opportunity to have a hearing before a judge and they did not have proper legal counsel. It was dismissed to their prejudice *without* the knowledge of petitioners about five weeks after they were tricked into signing an agreement and deeds to Alex Knoll to remove the cloud from Alex Knoll's title to keep the invalid oil and gas leases in effect Alex Knoll made with Casey Jones.

6. When Petitioners Appealed to the Tenth Circuit Socony Mobil Kept Petitioners Preoccupied With Three New Litigations.

In January 1965 petitioners gave notice to the effect that they were appealing the judgment of the lower court. A copy of the judgment of the United States District Court for the District of Kansas that petitioners appealed from is reproduced in *Appendix 6* on *page 27a.*

During the early part of 1965 Socony Mobil Oil Company had three complaints served on petitioners on three *related* litigations. These three complaints were filed in the United States District Court for the District of Kansas as civil actions numbered W-3361, W-3362, and W-3363 and were entitled "Socony Mobil Oil Company, Inc. vs. Anna Knoll, et al."

These three litigations are referred to because they relate to the inheritance interests of petitioners, which are effective as of the date of the death of their mother on December 13, 1941, and therefore *predate* the adverse claims of all parties named in these three litigations.

These three litigations are also referred to because Socony Mobil kept petitioners preoccupied with the three litigations during all stages of the appeal.

Petitioners did not realize until some additional papers were served on them in April 1965 in these three litigations that two of these litigations related to the leases covered in the two transfer orders that were sent to them

by James R. Barr on September 28, 1959 for signature, but which petitioners did not sign because of the discrepancies in their interests.

In reviewing these additional papers petitioners discovered that civil actions No. W-3363 and W-3362 related to the transfer orders sent to them for signature by Mr. Barr in his letter of September 28, 1959. Civil Action No. W-3363 covers "34990—Knoll A lease" and civil action No. W-3362 covers "34991—Knoll B lease." These transfer orders are referred to in the first paragraph of Mr. Barr's letter. A copy of Mr. Barr's letter is reproduced as *Appendix 26* on *page 68a.*

Petitioners filed their brief for the appeal containing the points relied on in April 1965. A copy of the index of petitioners brief is reproduced as *Appendix 40 on page 101a.*

Petitioners were in the process of preparing the aforementioned brief when they were preparing answers to the aforementioned three complaints from Socony Mobil.

Petitioners had already filed their brief containing the points they relied on before they received a letter from the Clerk of the U. S. Circuit Court of Appeals telling them to designate the points they relied on and also telling them to designate the records to be reproduced. A copy of petitioners letter of April 20, 1965 which enumerates the *five* points petitioners relied on in their appeal and designating the records to be reproduced appears as *Appendix 41* on pages 102a-111a.

Points one and two on pages 105a and 106a of the aforementioned April 20, 1965 letter relate primarily to the question of the existence of federal jurisdiction. Anna Knoll of Washington, D. C., and Rose Keller of Illinois are the parties on one side. The four indispensable parties on the other side are Alex Knoll of Kansas, his wife Josephine Knoll of Kansas, Casey Jones of Kansas, and

Socony Mobil, a corporation doing business in Kansas. Alex Knoll has a "color of title", Casey Jones made oil leases with Alex Knoll on the basis of Alex Knoll's "color of title", and Socony Mobil is purchasing oil on the basis of Alex Knoll's "color of title." All these four indispensable parties have been properly served. Copies of the Writs of Service appear on pages 87a-91a. There is diversity of citizenship between the aforementioned indispensable parties of Kansas and Rose Keller and Anna Knoll who are residents of other states.

Point three on page 106a covers Socony Mobil's negligence in making royalty interest payments on the basis of Alex Knoll's "color of title" to the other Knoll heirs and holding petitioners royalty interest in suspense.

Point four on pages 106a covers denial of due process with respect to petitioners inheritance interests and refers to petitioner Anna Knoll's appearance and her statements before the lower court on August 28, 1964.

Point five on page 107a is to the effect that the Order of Dismissal in W-1811 is of no legal effect and should therefore be set aside.

On May 24, 1965 petitioners received a letter from the clerk of the U. S. District Court, Wichita, Kansas wherein he had referenced civil actions No. W-3362 and W-3363. This letter was to the effect that a motion calendar would be prepared and a copy mailed to petitioners prior to June 25.

In June 1965 petitioners received a copy of a Motion for Additional Time in Which to File a Brief for appellees from Peter J. Wall. Petitioners wondered who he was since he had not served them any papers previously in that he had mailed this copy of the motion from Denver, in that he did not give his address, nor his title. A copy of this motion is reproduced in *Appendix 42 on page 112a.*

The letter stating that an order granting appellees to June 15, 1965 to serve and file their brief was sent to Mr. Wall's attention at a Denver address (*Appendix 43* on page 114a). Petitioners kept wondering who Mr. Wall was and where employed but were not able to verify Mr. Wall's employment with the Collins, Hughes, Martin, Pringle and Schell law firm at Denver. All that petitioners could find in the Martindale-Hubbel Law Directory was his employment as a law clerk in Denver.

Petitioners were very busy preparing for the hearing on June 25, 1965 at Wichita, Kansas on civil actions No. W-3362 and W-3363 when they received copies of their opponents briefs for the appeal pending in the Tenth Circuit. Petitioners noted from their opponents briefs that their opponents were represented by many lawyers.

Petitioners were at a great disadvantage in that they were *nonresidents* of Kansas and were representing themselves. Petitioners were also at a disadvantage because they did *not* get any copies of the Rules of the Tenth Circuit Court even though they requested copies of those rules.

Petitioners received a copy of a brief from the Collins, Hughes, Martin, Pringle & Schell law firm first. They noted that the names of eleven lawyers appeared on this brief. The appendix of the brief contained a complaint, defendants motion to dismiss, the opinion of the District Court and the Judgment. It did not contain the attachments to the complaint, the Answer of Socony Mobil, Rose Keller's Answer to Defendants Motion to Dismiss, Anna Knoll's Answer to Defendants Motion to Dismiss, Anna Knoll's Statement before the lower court on August 28, 1964, nor other records petitioners had designated to be reproduced for the record in the aforementioned April 20, 1965 letter.

Petitioners each received two copies of the brief filed by Socony Mobil a few days later along with a certificate

of service. The certificate stated that two copies were served on each of the petitioners on June 18. The names of fifteen lawyers appeared on this brief. A copy of this certificate of service is reproduced as *Appendix 44* on page 115a.

On June 25, 1965 petitioner Anna Knoll appeared for the arguments at Wichita in civil actions No. W-3362 and W-3363. At the hearing at Wichita the judge ordered the consolidation of the three litigations of Socony Mobil.

During the early part of July petitioners received a copy of a motion for dismissal of civil action No. W-3361 from one opponent and a copy of proposed pretrial order on consolidated civil actions No. W-3361, W-3362, and W-3363 from another opponent.

Petitioners were kept preoccupied with three litigations (W-3361, W-3362 and W-3363) in March, April, May, June, and part of July. Since petitioners were *not* provided with a copy of the Rules of the Tenth Circuit Court and did not know at that time where to get a copy of the rules they did not know the rules of the court with respect to belated briefs, reply briefs, etc.

Petitioners appeared in their own behalf before the appellate court on July 16, 1965.

Petitioners stressed denial of due process during the arguments. In contrast their opponents stated in effect that the paramount issue was diversity of citizenship and that the title question raised by petitioners would be settled in Socony Mobil's interpleader action. Petitioner Anna Knoll challenged their opponents statements when she stated in effect that if there was no diversity of citizenship in this case that there was no diversity of citizenship in the W-1811 case. Petitioner Anna Knoll pointed out the exceptions she took to points covered in the briefs of her opponents.

On August 23, 1965 the appellate court's per curiam opinion affirming the judgment of the U. S. District Court was filed.

By September 10, 1965 petitioners had filed a petition for rehearing stressing denial of due process and the other points covered in the previous brief of petitioners. Petitioners made a special effort to show that the outstanding 1957 Decree of Descent and the 1959 judgment are in conflict and that since the 1959 judgment is improper that it should be set aside and the 1957 Decree of Descent put into effect.

A copy of the index of the Petition for rehearing which was denied on September 22, 1965 is reproduced as *Appendix 45* on pages 116a and 117a.

Petitioners were kept preoccupied with the three litigations (W-3361, W-3362, and W-3363) before and after they prepared their petition for rehearing. Although they were kept busy with motions, orders, drafts of pretrial orders," etc. they tried to the best of their ability to protect their inheritance interests since they have not been able to engage a Kansas lawyer to represent them. Petitioner Anna Knoll and Rose Keller both appeared for the September 13, 1965 call at Wichita, Kansas because a calendar was sent to them a few days before September 13, 1965 on which a call was scheduled for W-3361, W-3362 and W-3363.

Petitioners realized after they received copies of additional documents from their opponents in September 1965 that civil action No. W-3361 relates to the last division order Mr. Barr sent to petitioners in 1959. See Appendix 27 on page 73a.

In due course of time petitioners realized then that Socony Mobil's three litigations related to three division orders that were sent to them by Mr. Barr in 1959. These are the three division orders that petitioners did ***not*** sign

because they are inconsistent with their inheritance interests.

The entire proceedings in civil actions No. W-3361, W-3362 and W-3363 were conducted to prejudice the inheritance interests of petitioners. For that reason petitioners sent their objections by certified mail to the U. S. District Court on the numerous papers that were sent to them by their opponents in these three litigations.

Petitioners were even kept preoccupied as recently as the week of December 13, 1965 with these three litigations. During this period they received a copy of a calendar from the U. S. District Court for the District of Kansas for the January 1966 Session of Court at Wichita, Kansas. Page 24 of this calendar shows that the aforementioned civil actions No. W-3361, W-3362, and W-3363 are scheduled for trial to the court beginning Monday, January 17, 1966 at 9:30 A.M.

REASONS FOR GRANTING WRIT

1. The Appellate Court Ignored Its Obligation to Consider the Points Petitioners Presented With Regard to Denial of Due Process When It Affirmed the Lower Court's Judgment (Appendix 7, pages 28a-29a).

The paramount question before the appellate court involved much more than the question of diversity of citizenship.

The paramount question before the appellate court was the *denial of due process* in the taking of petitioners' property and giving it to Alex Knoll in the 1959 court proceedings of the United States District Court for the District of Kansas, in civil action No. W-1811 entitled "Rose Keller, Anna Knoll, and Margaret Sluga vs. Alex Knoll." Petitioners had copies of the Decree of Descent on their mother's estate, and also had certificates of title when civil action No. W-1811 was filed in the U. S. District Court for the District of Kansas.

It has long been held that the fourteenth amendment of the Constitution guarantees *due process in civil proceedings.* Notice must be afforded that is adequate for the purpose and a hearing must be held that is both sufficient and fair.

> "The guaranty of due process of law inhibits the taking of one man's property and giving it to another, contrary to settled usages and modes of procedure, without notice and opportunity for a hearing." *Ochoa* v. *Hernandez y Morales,* Porto Rico, 33 S. Ct. 1033, 1038, 230 U.S. 139, 57 L. Ed. 1427.
>
> "Due process of law," guaranteed in both the fifth and fourteenth amendments to the Constitution, means the law of the land. The guaranty implies the administration of equal laws according to established rules by competent tribunals having jurisdiction and proceeding upon notice and hearing. *United States* v. *Billing,* 190 F. 359, 364.
>
> "The liberty of which the fourteenth amendment forbids a state from depriving anyone without due process of law is something more than freedom from the enslavement of the body or from physical restraint. In my judgment, the words 'life, liberty or property' in the fourteenth amendment should be interpreted as embracing every right that may be brought within judicial cognizance, and therefore no right of that kind can be taken in violation of 'due process of law.'" *Taylor* v. *Beckham,* 20 S. Ct. 890, 1016, 178 U.S. 548, 44 L. Ed. 1187.

2. Denial of the Equal Protection of the Law to Two Nonresidents of Kansas, Whose Inheritance Interests Were so Prejudiced That They Could Not Engage the Services of a Kansas Lawyer, Represents an Important Question of Federal Law Which Should Be Settled by This Court.

The equal protection of the law guaranteed under the fourteenth amendment of the Constitution has not been given to petitioners in the enjoyment of the property petitioners inherited from their natural parents.

Petitioners do not have the same access to the courts of Kansas for the protection of their property and redress of

wrongs as their opponents do and for this reason have not received a cent of benefit from their parents' property.

A greater burden is placed upon petitioners than upon their opponents in that they have not been successful in getting their inheritance even after they had a copy of their mother's decree of descent and certificates of title.

All evidence in their favor has been suppressed in the numerous court proceedings on their parents estate.

Even though petitioners gave timely notification of the discrepancies in their interests when they received the three division orders in 1959 for signature, they did not get the equal protection of the law to reopen civil action No. W-1811 so they could get the inheritance to which they are entitled in accordance with the decree of descent of 1957.

Even though petitioners have been paying taxes in Graham County, Kansas on funds held in suspense by Socony Mobil, they have not been able to get a cent of benefit from their parents estate.

3. The Appellate Court Has Sanctioned a Departure From the Accepted and Usual Course of Judicial Proceedings by the Lower Courts in Kansas as to Call for an Exercise of This Court's Power of Supervision

The steps that have been taken down through the years to negate petitioners efforts to get their inheritance interests represent a departure from the accepted and usual course of judicial proceedings. Since their parents deaths six *invalid* deeds have been recorded to deprive petitioners of their undivided one-ninth inheritance interest in fee simple they have in their parents 320-acre farm. *Invalid* oil and gas leases were made on a "color of title" to deprive them of their royalty interest. Oil produced from their parents farm has been purchased since November 1957 on the basis of "color of title." Division orders were sent to petitioners during the latter part of 1959 after their property was given away in the court proceedings entitled

"Rose Keller, Anna Knoll, and Margaret Sluga vs. Alex Knoll." Petitioners were denied relief when they notified the interested parties of the discrepancies in their interests and asked for relief.

By affirming the lower courts dismissal action and ignoring petitioners points with respect to the *denial of due process* the appellate court sanctioned a departure from the accepted and usual course of judicial proceedings by the lower courts in Kansas as to call for an exercise of this court's power of supervision.

CONCLUSION

It is respectfully urged that for the reasons given, this petition for certiorari should be granted.

Respectfully submitted,

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